

Message Text

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DRAFTED BY ARA/PAN:RCAMAU:ZC
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TO AMEMBASSY PANAMA PRIORITY

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STADIS

E.O. 11652: N/A

TAGS: PBOR, PN

SUBJECT:MOVABLE PROPERTY TRANSFER GUIDELINES

1. AT THE JULY 25 PANAMA CANAL BOARD OF DIRECTORS' MEETING, BOARD MEMBERS WERE ASKED TO COMMENT ON GUIDELINES PROPOSED BY THE COMPANY STAFF REGARDING TRANSFER OF MOVABLE PROPERTY ASSOCIATED WITH FACILITIES AND FUNCTIONS ASSUMED UNDER THE TREATY BY PANAMA. AT ISSUE IS WHETHER VARIOUS CATEGORIES OF MOVABLE PROPERTY OF THE PANAMA CANAL COMPANY SHOULD BE TRANSFERRED TO PANAMA AT A PRICE OR AT NO CHARGE. A LEGAL OPINION HAD BEEN PROVIDED THE PANAMA CANAL COMPANY BY THE DEPARTMENT'S LEGAL ADVISER STATING THAT GRATUITOUS TRANSFERS OF MOVABLE PROPERTY TO PANAMA ARE PERMISSIBLE ON THE LIMITED OFFICIAL USE

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BASIS OF BOTH THE TREATY AND UNITED STATES LEGISLATION. THE GUIDELINES SEEK TO ESTABLISH WHICH GRATUITOUS TRANSFERS ARE DESIRABLE AS A MATTER OF POLICY.

2. AMBASSADOR VAKY HAS FORWARDED A LETTER TO THE COMPANY COMMENTING ON THE PROPOSED GUIDELINES IN HIS CAPACITY AS A MEMBER OF THE BOARD OF DIRECTORS. HIS LETTER DRAWS OB-

SERVATIONS BOTH ON THE PROCEDURES FOR ESTABLISHING THE GUIDELINES AND THE SUBSTANCE OF THE GUIDELINES PREPARED BY THE PANAMA CANAL STAFF. UNDER SECRETARY COOPER HAS

ALSO PROVIDED A LETTER COMMENTING ON THE DRAFT GUIDELINES TO THE COMPANY. COPIES OF THE DRAFT GUIDELINES AS WELL AS THE TWO AFOREMENTIONED RESPONSES ARE BEING FORWARDED TO THE EMBASSY BY POUCH (THE LEGAL ADVISER'S MEMORANDUM WAS POUCHED IN JUNE).

3. IN DISCUSSING WHETHER A TRANSFER SHOULD BE MADE TO PANAMA AT A PRICE, AMBASSADOR VAKY PROPOSED THAT, WHERE A TRANSFER OF MOVABLE PROPERTY TO PANAMA RESULTS IN A SUBSTANTIAL AND DEMONSTRABLE BENEFIT TO THE UNITED STATES, THE TRANSFER SHOULD BE MADE WITHOUT COST. MR. COOPER RECOMMENDS THAT PROPERTY, WHICH IS REQUIRED FROM THE NORMAL, EFFICIENT OPERATION OF THE ACTIVITIES TO BE TRANSFERRED TO PANAMA UNDER THE TREATY, BE TRANSFERRED WITHOUT CHARGE. MR. COOPER'S POSITION TAKES A SOMEWHAT RESTRICTIVE APPROACH, REQUIRING PANAMA TO PAY FOR MOST PUBLIC SERVICES EQUIPMENT (THOUGH THIS WOULD BE OFFSET SUBSEQUENTLY BY CHARGING FOR DEPRECIATION). CHARGING FOR EQUIPMENT, HELPS TO PREVENT UNDER VALUATION OF ASSETS AND TO WAIVE FUNDS AVAILABLE FOR REPLACEMENT.

4. WITH RESPECT TO PROCEDURES FOR ESTABLISHING THE GUIDELIMITED OFFICIAL USE

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LINES, BOTH MR. COOPER AND AMBASSADOR VAKY BELIEVE THAT THE GUIDELINES REQUIRE AN INTERAGENCY REVIEW BECAUSE THE BROAD UNITED STATES INTERESTS IN SUCH TRANSFER EXTEND BEYOND THE MANAGEMENT OF THE COMPANY'S AFFAIRS. TREASURY ALSO SUPPORTS THIS VIEW BUT THE ARMY DOES NOT. AS PART OF THE COORDINATION PROCESS, AMBASSADOR VAKY HAS SAID THAT COORDINATION WITH THE EMBASSY IS ESSENTIAL BECAUSE OF THE AMBASSADOR'S ROLE IN THE TRANSFER OF FUNCTIONS TO PANAMA PROPOSED BY THE IMPLEMENTING LEGISLATION AND THE LIKELY IMPACT ON PANAMA CONCERNING THE TRANSFER OF MOVABLE PROPERTY AT A PRICE.

5. REQUEST EMBASSY OBSERVATIONS ON THE ISSUE INCLUDING ITS PROBABLE IMPACT ON TREATY IMPLEMENTATION. CHRISTOPHER

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